

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

SAMUEL H. MILES, JR.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2:22-cv-01058-ACA-SGC
)	
DONALDSON CORRECTIONAL)	
FACILITY,)	
)	
Defendant.)	

MEMORANDUM OPINION

Plaintiff Samuel H. Miles, Jr. filed a *pro se* complaint pursuant to 42 U.S.C. § 1983. (Doc. 1). On August 23, 2022, the court ordered Mr. Miles to file a new application to proceed *in forma pauperis* (“IFP”) within thirty days that included a certified copy of his jail or prison account statements for the last six months. (Doc. 4). The court explained that it might dismiss this action for failure to prosecute if Mr. Miles did not comply with the court’s order. (*Id.* at 1). After Mr. Miles did not file a new IFP application, the magistrate judge entered a report on October 3, 2022, recommending that the court dismiss this case without prejudice for failure to prosecute. (Doc. 5).

Mr. Miles filed a response explaining he attempted to obtain a certified copy of his prisoner account statement, but he believed it would require a court order to obtain the records from the facility where he is incarcerated. (Doc. 6 at 1). Although the court had not received any communication from Mr. Miles regarding his alleged attempts to


obtain a certified copy of his prisoner account statement, the magistrate judge tolled the deadline for Mr. Miles to object to the report and recommendation and gave him an opportunity to either pay the filing fee or submit a new, fully completed IFP application that included a certified copy of his jail or prison account statements for the last six months. (Doc. 7). The magistrate judge warned Mr. Miles that if he did not submit a new application or pay the filing fee before November 11, 2022, the court would dismiss this action without further notice for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). (*Id.* at 2–3).

To date, the court has not received the filing fee, a new IFP application, or any objection from Mr. Miles to the report and recommendation.

After careful consideration of the record in this case and the magistrate judge's report, the court **ADOPTS** the report and **ACCEPTS** the recommendation. (Doc. 5). Consistent with that recommendation, the court **WILL DISMISS** this action **WITHOUT PREJUDICE**.

The court will enter a separate final order consistent with this memorandum opinion.

DONE and **ORDERED** this December 6, 2022.



ANNEMARIE CARNEY AXON
UNITED STATES DISTRICT JUDGE